



Senate

General Assembly

File No. 42

January Session, 2023

Substitute Senate Bill No. 1009

Senate, March 9, 2023

The Committee on Children reported through SEN. MAHER, C. of the 26th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING IDENTIFIED ADOPTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-728 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 The Commissioner of Children and Families shall adopt regulations
4 in accordance with chapter 54 concerning [adoption] adoptive
5 placement of children [who have been identified or located] by child-
6 placing agencies, whether such children have been identified or located
7 by prospective adoptive parents or placed for adoption by such
8 agencies. Such regulations shall provide that for adoptions involving an
9 identified [expectant mother] pregnant person, counseling of [the birth
10 mother] such person shall be required [within] not later than seventy-
11 two hours [of] after the birth of the child, or as soon as medically
12 possible after [the] such birth, [, and that permissible payment of
13 expenses for birth parent counseling shall include the cost of
14 transportation.] Such counseling may be provided by a person with a
15 master's or doctoral degree in counseling, psychology, social work or

16 related mental health disciplines from an accredited college or
17 university.

18 Sec. 2. Section 45a-728a of the general statutes is repealed and the
19 following is substituted in lieu thereof (*Effective July 1, 2023*):

20 Prospective adoptive parents may participate in the labor and birth
21 of the child identified for adoption and may visit with such newborn
22 child, provided the [birth mother] pregnant person, the child-placing
23 agency and [her] the pregnant person's physician agree and such
24 participation and visitation are consistent with the medically necessary
25 procedures of the hospital.

26 Sec. 3. Section 45a-728b of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective July 1, 2023*):

28 Any licensed hospital discharging a newborn infant identified for
29 adoption to a child-placing agency shall arrange for the physical transfer
30 of custody of such infant to take place in a safe, secure and private room
31 on the hospital premises. The prospective adoptive parent or parents
32 may be present at the discharge with the approval of the child-placing
33 agency. At the time of discharge, the hospital shall provide such
34 prospective adoptive parent or parents or child-placing agency with any
35 nonidentifying information customarily provided to [birth] any alleged
36 genetic parents upon discharge concerning the care, feeding and health
37 of the infant. The hospital shall provide the child-placing agency with
38 the medical information concerning the [birth mother] person who gave
39 birth and the infant within a reasonable time. Such prospective adoptive
40 parent or parents shall be permitted to participate in any program of
41 instruction regarding infant care and child development that is made
42 available by such licensed hospital to [birth] any alleged genetic parents,
43 provided such prospective adoptive parent or parents pay the cost of
44 such participation in such program.

45 Sec. 4. Section 45a-728c of the general statutes is repealed and the
46 following is substituted in lieu thereof (*Effective July 1, 2023*):

47 (a) With respect to [adoption] adoptive placement of [children who
48 have been] a child identified or located by a prospective adoptive parent
49 or parents, payment [for the living expenses of the birth mother by the
50 prospective adoptive parents shall be permitted in an amount not to
51 exceed one thousand five hundred dollars or such amount as may be
52 approved in unusual circumstances by the probate court for the district
53 where the child-placing agency is located or where the prospective
54 adoptive parents reside. In addition to the payment of living expenses,
55 payment by the prospective adoptive parents of reasonable telephone
56 and maternity clothing expenses of the birth mother shall be permitted.]
57 or reimbursement by such adoptive parent or parents to the person
58 giving birth for reasonable expenses, fees and services relating to the
59 pregnancy or adoption, including, but not limited to, living, medical or
60 legal expenses, as determined by the child-placing agency, shall be
61 permitted. Any such payments or reimbursements shall be made not
62 earlier than one hundred eighty days prior to the expected date of birth
63 of such child and not later than sixty days after the birth of such child.
64 Any such payments or reimbursements are subject to approval by the
65 Probate Court in which an application and agreement for adoption
66 pursuant to section 45a-727 has been or will be filed.

67 (b) Except as provided in subsection (c) of this section, payments or
68 reimbursements provided by a prospective adoptive parent or parents
69 in accordance with subsection (a) of this section shall not obligate any
70 alleged genetic parent or parents to place such child for adoption. If such
71 alleged genetic parent or parents do not place such child for adoption
72 after such child's birth, the prospective adoptive parent or parents who
73 provided such payments or reimbursements shall have no right to
74 reimbursement for such payments or reimbursements.

75 (c) A prospective adoptive parent or parents may seek
76 reimbursement for payments or reimbursements provided in
77 accordance with subsection (a) of this section if (1) the person who
78 received such payments or reimbursements was knowingly not
79 pregnant at the time of the receipt of such payments or reimbursements,
80 or (2) such person received payments or reimbursements

81 simultaneously from a separate prospective adoptive parent or parents
82 without the knowledge of such other prospective adoptive parent or
83 parents.

84 (d) Except as provided in subsection (e) of this section, prior to the
85 provision of payment or reimbursement in accordance with subsection
86 (a) of this section, the prospective adoptive parent or parents providing
87 such payment or reimbursement shall file with the Probate Court in
88 which an application and agreement for adoption pursuant to section
89 45a-727 has been or will be filed, a sworn affidavit containing a list of all
90 expenses, fees and services that such parent or parents intend to pay or
91 for which such parent or parents intend to reimburse. The Probate Court
92 shall, ex parte and without prior notice, approve reasonable payments
93 and reimbursements for such expenses, fees and services. If the Probate
94 Court determines that a payment or reimbursement is unreasonable, the
95 Probate Court shall schedule a hearing on such affidavit to occur not
96 later than thirty days after such affidavit is filed. Not later than thirty
97 days after such hearing, the court shall issue an order approving or
98 disapproving each payment or reimbursement based on specific
99 findings of fact.

100 (e) A prospective adoptive parent or parents may make payments or
101 reimbursements, in accordance with subsection (a) of this section, of not
102 more than two thousand dollars total, without filing a sworn affidavit
103 in accordance with subsection (d) of this section, provided the child-
104 placing agency determines (1) there is a demonstrated need for such
105 payments or reimbursements to protect the health or well-being of the
106 pregnant person or child, and (2) such payments or reimbursements are
107 reasonable.

108 Sec. 5. Section 45a-728d of the general statutes is repealed and the
109 following is substituted in lieu thereof (*Effective July 1, 2023*):

110 Any [birth] alleged genetic parent, or such parent's legal
111 representative, may advertise through any public media [in this state]
112 for the placement of [his or her] such parent's child for the purposes of
113 identified adoption or adoption through a child-placing agency. Any

114 prospective adoptive parent, or such prospective adoptive parent's legal
 115 representative, may advertise through any public media [in this state]
 116 for placement of a child into his or her care for the purposes of identified
 117 adoption or adoption through a child-placing agency.

118 Sec. 6. Subsection (a) of section 45a-763 of the general statutes is
 119 repealed and the following is substituted in lieu thereof (*Effective July 1,*
 120 *2023*):

121 (a) An Adoption Review Board is established, to consist of the
 122 Commissioner of Children and Families or [his] the commissioner's
 123 designee, the Probate Court Administrator or [his] the administrator's
 124 designee, and [an officer] a representative of a child-placing agency
 125 which is located in the state and licensed by the Commissioner of
 126 Children and Families, who shall be appointed by the Governor to serve
 127 for a term of four years from the date of [his] such appointment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	45a-728
Sec. 2	<i>July 1, 2023</i>	45a-728a
Sec. 3	<i>July 1, 2023</i>	45a-728b
Sec. 4	<i>July 1, 2023</i>	45a-728c
Sec. 5	<i>July 1, 2023</i>	45a-728d
Sec. 6	<i>July 1, 2023</i>	45a-763(a)

Section 1	<i>July 1, 2023</i>	45a-728
Sec. 2	<i>July 1, 2023</i>	45a-728a
Sec. 3	<i>July 1, 2023</i>	45a-728b
Sec. 4	<i>July 1, 2023</i>	45a-728c
Sec. 5	<i>July 1, 2023</i>	45a-728d
Sec. 6	<i>July 1, 2023</i>	45a-763(a)

Statement of Legislative Commissioners:

In Section 1, "within seventy-two hours of birth" was changed to "[within] not later than seventy-two hours [of] after the birth" for consistency with standard drafting conventions, Section 4(a), "has or will be" was changed to "has been or will be" for clarity, Section 4(c), "from separate prospective adoptive parents without the knowledge of the other prospective adoptive parents" was changed to "from a separate adoptive parent or parents without the knowledge of such other prospective adoptive parent or parents" for clarity, and in Section 4(d), "has or will be filed, a sworn affidavit containing all expenses, fees and services such parent or parents intend to pay or reimburse for" was changed to "has been or will be filed, a sworn affidavit containing a list of all expenses, fees and services that such parent or parents intend to

pay for or for which such parent or parents intend to reimburse" for clarity.

KID *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which (1) requires the Department of Children and Families to revise regulations concerning the adoptive placements of children by child-placing agencies, (2) specifies the types of reimbursements and payments that may be made by prospective adoptive parents to pregnant parents, (3) allows certain individuals to advertise through public media, and (4) makes other minor revisions to statutes concerning adoption, does not result in a fiscal impact to the State or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1009*****AN ACT CONCERNING IDENTIFIED ADOPTIONS.*****SUMMARY**

This bill makes several changes to the laws that govern identified adoption procedures in Connecticut. (An identified adoption, which must be approved by the probate court, is one in which the child being placed for adoption was identified or located by the prospective adoptive parents.)

The bill adds certain social workers to the list of professionals who may provide existing law's required post-delivery birth parent counseling. It also specifically allows birth parents' and prospective adoptive parents' legal representatives to advertise, through public media, the child's placement for identified adoption.

For payments or reimbursements made by prospective adoptive parents to the person giving birth, the bill eliminates current law's \$1,500 cap and instead requires that the payments and reimbursements be reasonable and limited to a specific duration. It also requires the prospective adoptive parents to first file a sworn affidavit of these expenses with the probate court. The court must approve reasonable expenses ex parte (without a hearing) or hold a hearing within a specific timeframe if it finds the expenses unreasonable.

The bill exempts from the affidavit requirement payments and reimbursements up to \$2,000 if they are reasonable and necessary to protect the pregnant person's or child's health or well-being. It also limits the circumstances under which the prospective adoptive parents may be reimbursed by the person who received payments or reimbursements.

Current law requires the Department of Children and Families commissioner to adopt regulations for the placement of children in identified adoptions. The bill specifies that these regulations apply to child placement whether the child was (1) identified or located by the prospective adoptive parents or (2) placed for adoption by the child placement agency.

The bill also conforms the statutes on identified adoption to the Connecticut Parentage Act (PA 21-15) by replacing the gender-specific term “expectant mother” with “pregnant person.” It also replaces the term “birth parent” with “alleged genetic parent.” (Presumably, this includes the person giving birth.)

Lastly, the bill requires the governor to appoint to the Adoption Review Board a representative of a child-placing agency, rather than an officer of a child-placing agency as current law requires.

EFFECTIVE DATE: July 1, 2023

POST-DELIVERY COUNSELING

The law requires that a person who gives birth in an identified adoption case must receive counseling within 72 hours after the child’s birth or as soon as medically possible after giving birth. Current law allows the counseling to be provided by individuals with a master’s or doctoral degree in counseling, psychology, or related mental health disciplines from an accredited college or university. The bill expands the list of professionals who may provide the counseling by including individuals who have a master’s or doctoral degree in social work.

ADVERTISING

Current law allows the birth parent (“alleged genetic parent” under the bill) and the prospective adoptive parents to advertise, through public media, for the child’s placement for identified adoption. The bill (1) specifically allows the parties’ legal representatives to advertise on their behalf, (2) removes current law’s restriction that the advertisements be in-state only, and (3) specifies that these provisions also apply to adoptions through a child-placing agency.

PAYMENT OF EXPENSES BY PROSPECTIVE ADOPTIVE PARENTS***Permissible Expenses, Fees, and Services***

The bill broadens the expenses prospective adoptive parents must be allowed to pay or reimburse the person giving birth in cases where the child was identified or located by the prospective adoptive parents. It also establishes timeframes for making the payments and reimbursements.

Current law caps the payment or reimbursement for living expenses at \$1,500 or, in unusual circumstances, an amount approved by the probate court for the district where the child-placing agency is located or where the prospective adoptive parents live. Current law also specifically allows payment or reimbursement for (1) reasonable telephone and maternity clothing expenses and (2) post-delivery counseling expenses, including transportation costs.

The bill instead allows adoptive parents to pay or reimburse the person giving birth for reasonable pregnancy- or adoption-related expenses, fees, and services. This includes living, medical, or legal expenses as determined by the child-placing agency. The payments or reimbursements (1) must be made within 180 days before the expected date of birth and 60 days after the child's birth and (2) are subject to approval by the probate court where the adoption agreement or application was or will be filed.

Affidavit Filing Requirement and Exception

With one exception (see below), the bill requires the prospective adoptive parents, before making any payments or reimbursements, to file a sworn affidavit with the probate court in which an adoption application and agreement was or will be filed. The affidavit must contain all expenses, fees, and services for which the prospective adoptive parents intend to pay or reimburse.

The bill allows prospective adoptive parents to pay or reimburse a maximum of \$2,000 of the expenses described above, without filing an affidavit, if the child-placing agency determines the payments or

reimbursements are reasonable and necessary to protect the pregnant person's or child's health or well-being.

Probate Court Approval

The bill requires the probate court to, without prior notice or a hearing (i.e., ex parte), approve reasonable payments and reimbursements. If the probate court determines that a payment or reimbursement is unreasonable, it must schedule a hearing on the affidavit within 30 days after it was filed. Within 30 days after the hearing, the court must approve or disapprove each payment or reimbursement based on specific findings of fact.

Reimbursement to Prospective Adoptive Parent

Under the bill, the alleged genetic parents are not obligated to place the child for adoption just because they accepted payments or reimbursements from the prospective adoptive parents. If the alleged genetic parents do not place the child for adoption after birth, the prospective adoptive parents are generally not entitled to reimbursement of the payments or reimbursements of expenses they made.

The bill allows prospective adoptive parents to seek reimbursement of the payments or reimbursements they made if the person who received the money did so (1) when knowingly not pregnant or (2) simultaneously from separate prospective adoptive parents without the others' knowledge.

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 14 Nay 5 (02/24/2023)